



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R05-OAR-2015-0700; FRL-9991-10-Region 5]

**Air Plan Approval; Indiana; Attainment Plan for Indianapolis and
Terre Haute SO₂ Nonattainment Areas**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action to approve State Implementation Plan (SIP) revisions that Indiana submitted to EPA on October 2, 2015 for attaining the 2010 sulfur dioxide (SO₂) national ambient air quality standard (NAAQS) for the Indianapolis (Marion County) and Terre Haute (Vigo County) areas. EPA proposed this action on August 15, 2018 and did not receive any relevant public comments. These revisions (herein called the "attainment plans" or "plans") include Indiana's attainment demonstration and other elements required under the Clean Air Act (CAA) for the two areas. In addition to an attainment demonstration, the plans address: the requirement for meeting reasonable further progress (RFP) toward attainment of the NAAQS, reasonably available control measures and reasonably available control technology (RACM/RACT), emission inventories, and contingency measures. EPA further concludes that Indiana has demonstrated

that the plans provide for attainment of the 2010 SO₂ NAAQS in the Indianapolis and Terre Haute areas by the attainment date of October 4, 2018.

DATES: This final rule is effective on **[insert date 30 days after date of publication in the Federal Register]**.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA-R05-OAR-2015-0700. All documents in the docket are listed on the www.regulations.gov web site. Although listed in the index, some information is not publicly available, i.e., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either through www.regulations.gov or at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays. We recommend that you telephone Sarah Arra, Environmental Scientist, at 312-886-9401 before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT: Sarah Arra, Environmental Scientist, Attainment Planning and Maintenance Section, Air Programs Branch (AR-18J), Environmental Protection Agency,

Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604,
(312) 886-9401, Arra.Sarah@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document whenever "we," "us," or "our" is used, we mean EPA. This supplementary information section is arranged as follows:

- I. What action did EPA propose and why?
- II. What comments did EPA receive, and what are EPA's responses?
- III. What action is EPA taking?
- IV. Incorporation by Reference
- V. Statutory and Executive Order Reviews

I. What action did EPA propose and why?

On August 15, 2018 (83 FR 40487), EPA proposed to approve an attainment plan submittal as a revision to Indiana's SIP, submitted on October 2, 2015, for the 2010 SO₂ NAAQS for the Indianapolis (Marion County), Southwest Indiana (Daviess and Pike Counties), and Terre Haute (Vigo County) areas. This action finalizes approval for the Indianapolis and Terre Haute areas only.

The dispersion modeling results submitted by Indiana show design values that are less than the standard of 75 parts per billion (ppb), specifically 73 ppb for the Indianapolis area and 72.6 ppb for the Terre Haute area. EPA proposed that these areas demonstrate attainment of the 2010 SO₂ standard and meet

the applicable requirements of CAA sections 110, 172, 191, and 192 including emission inventories, RACT/RACM, RFP, and contingency measures, and that Indiana has previously addressed requirements regarding nonattainment area new source review (NSR).

II. What comments did EPA receive, and what are EPA's responses?

EPA's August 15, 2018 proposed action received one public comment pertaining to the Southwest Indiana area, but no comments pertaining to the Indianapolis and Terre Haute areas. Because this final action is acting on the Indianapolis and Terre Haute areas only, EPA will respond to the comment for the Southwest Indiana in the applicable, separate rulemaking. EPA also received two anonymous comments that address subjects outside the scope of our proposed action, do not explain (or provide a legal basis for) how the proposed action should differ in any way, and make no specific mention of the substantive aspects of the proposed action. Consequently, these comments are not germane to this rulemaking and require no further response.

III. What action is EPA taking?

EPA is approving Indiana's attainment plans as submitted to EPA on October 2, 2015, as a revision to Indiana's SIP, for attaining the 2010 SO₂ NAAQS for the Indianapolis (Marion County)

and Terre Haute (Vigo County) areas. The attainment plans include Indiana's attainment demonstrations for the Indianapolis and Terre Haute nonattainment areas using dispersion modeling to demonstrate that the emission limits that Indiana adopted into 326 Indiana Administrative Code Article 7, and submitted for EPA approval, provide for air quality meeting the SO₂ NAAQS.

The attainment plans also satisfy requirements for emission inventories, RACT/RACM, RFP, and contingency measures. Additionally, Indiana has previously addressed requirements regarding nonattainment area NSR rules¹. Therefore, EPA has determined that Indiana's SO₂ attainment plans meet the applicable requirements of CAA sections 110, 172, 191, and 192.

IV. Incorporation by Reference.

In this rule, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference of the Indiana Regulations described in the amendments to 40 CFR part 52 set forth below. EPA has made, and will continue to make, these documents generally available through www.regulations.gov, and at the EPA Region 5 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information). Therefore, these materials have been approved by

¹ See 94 FR 24838 (October 7, 1994).

EPA for inclusion in the SIP, have been incorporated by reference by EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of EPA's approval, and will be incorporated by reference in the next update to the SIP compilation.²

V. Statutory and Executive Order Reviews.

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;

² 62 FR 27968 (May 22, 1997).

- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally

permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the Federal Register. A major rule cannot take effect until 60 days after it is published in the Federal Register. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court

of Appeals for the appropriate circuit by **[insert date 60 days after date of publication in the Federal Register]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control,
Incorporation by reference, Intergovernmental relations,
Reporting and recordkeeping requirements, Sulfur oxides.

Dated: March 11, 2019.

Cheryl L. Newton,
Acting Regional Administrator, Region 5.

40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

2. In § 52.770, the table in paragraph (c) under the heading “Article 7. Sulfur Dioxide Rules” is amended by:

a. Adding, in numerical order, an entry for “7-1.1-3” under “Rule 1.1. Sulfur Dioxide Emission Limitations”;

b. Revising the entry for “7-2-1” under “Rule 2. Compliance”;

c. Removing the entries for “7-4-2” and “7-4-3”; and

d. Adding, in numerical order, the entries for “7-4-2.1” and “7-4-3.1” under “Rule 4. Emission Limitations and Requirements by County”.

The additions and revisions read as follows:

§ 52.770 Identification of plan.

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(c) * * *

EPA—APPROVED INDIANA REGULATIONS

Indiana citation	Subject	Indiana effective date	EPA approval date	Notes
* * * * *				
Article 7. Sulfur Dioxide Rules				
Rule 1.1 Sulfur Dioxide Emission Limitations				

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7-1.1-3	Compliance Date	10/5/2015	[Insert date of publication in the Federal Register], [Insert Federal Register citation]	
Rule 2. Compliance				
7-2-1	Reporting Requirements; methods to determine compliance	10/5/2015	[Insert date of publication in the Federal Register], [Insert Federal Register citation]	
* * * * *				
Rule 4. Emission Limitations and Requirements by County				
7-4-2.1	Marion County sulfur dioxide emission limitations	1/1/2017	[Insert date of publication in the Federal Register], [Insert Federal Register citation]	
7-4-3.1	Vigo County sulfur dioxide emission limitations	1/1/2017	[Insert date of publication in the Federal Register], [Insert Federal Register citation]	
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[FR Doc. 2019-05282 Filed: 3/21/2019 8:45 am; Publication Date: 3/22/2019]